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Notice of Allowability

Application No.

10/511,878

Examiner

Ardith E. Hertzog

Applicant(s)

HUNT ET AL.

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the "Amendment" filed 04 August 2005.
2. ☒ The allowed claim(s) is/are 1-16, 18-29 & 31-35, now numbered 1, 21, 22, 17, 19, 23-25, 2, 13, 3, 12, 4, 10, 5-9, 14-16, 11, 26, 27, 20, 28, 29, 18 & 30-33, respectively.
3. ☒ The drawings filed on 04 August 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

STANLEY S. SILVERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: It is agreed that the "Amendment" filed August 4, 2005 has put this application in condition for allowance. **All** objections **and** 35 U.S.C. § 112, second paragraph, rejections of the claims, as set forth in the prior Office action with mailing date June 16, 2005 (hereinafter "the 6/16/05 action"), have been **overcome/mooted** by amendment.¹ **Furthermore**, applicant's arguments concerning the prior art rejections of instant claims 33-35, based upon JP 2002-66498 (hereinafter "JP '498") as set forth in the 6/16/05 action, have been carefully considered and found **persuasive**. In particular, it is **agreed** that "JP '498 does not disclose all of the elements of claim 33 of the present application... [and] that the apparatus of JP '498 cannot perform the function of the apparatus of claim 33" (see remarks accompanying amendment at p. 18, lines 3-7), for those reasons advanced by applicant (per remarks accompanying amendment at p. 15, line 19 – p. 18, line 2)²—the full English translation of JP '498 cited herewith only strengthens applicant's arguments. **Thus**, as JP '498 neither teaches nor would have suggested the apparatus of instant claims 33-35, **all** prior art rejections thereof, as set forth in paragraphs 17.-18. of the 6/16/05 action, have been **withdrawn**. **Accordingly**, as the prior art of record fails to teach or to have suggested apparatus comprising the three

¹ With the exception of the specification objection set forth as 10.a. therein; however, upon reconsideration, it is now seen that page 38, line 13, of the specification, when considered in context, provides adequate antecedent basis for the limitations of claim 12.

² Note that the article submitted by applicant with the remarks accompanying the amendment has been officially made of record on the enclosed PTO-892.

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specific components **required** by applicant's independent claim 33, instant claims 33-35 are now deemed allowable over this prior art, with instant claims 1-16, 18-29, 31 and 32 considered allowable, per paragraph 21. of the 6/16/05 action.

2. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or any earlier communications from the examiner should be directed to Ardith E. Hertzog at 571-272-1347. The examiner can normally be reached on Monday through Friday (from about 8:00 a.m. - 4:00 p.m.).

4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman, can be reached at 571-272-1358. The central fax number for all communications is now 571-273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. For any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Handwritten signature of AEH in black ink.

August 16, 2005